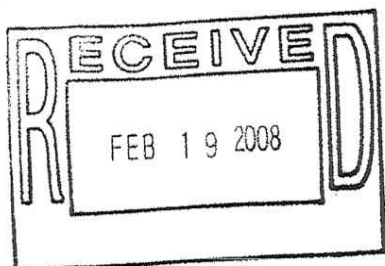


## **EXHIBIT H**

# THE HUGHES LAW FIRM

A PROFESSIONAL CORPORATION

BOARD CERTIFIED  
CONSUMER AND COMMERCIAL LAW  
TEXAS BOARD OF LEGAL SPECIALIZATION



12 February 2008

Mr. Dean Whitehouse  
Senior Corporate Counsel  
3Com Corporation  
350 Campus Drive  
Marlborough, MA 01752-3064

*via regular mail and certified mail*

Mr. Jerry L. Noon  
Senior Vice-President  
Main Street National Bank  
Post Office Box 5799  
Kingwood, Texas 77325

*via regular mail and certified mail*

Re: 3Com® Power of \$Zero™ Solution:  
3Com Power of \$Zero™ Customer Agreement dated 4 April 2006  
("3Com POZ Agreement"), and Rental Agreement No. 104039  
dated 29 June 2006 ("3Com POZ Rental Agreement")

Dear Messrs. Whitehouse and Noon:

This firm represents The Bank & Trust Company ("Bank & Trust") concerning its claims arising out of the 3Com POZ Agreement and the 3Com POZ Rental Agreement, referenced above. All further communications regarding this matter should be directed to the undersigned.

This letter is provided as formal notice of demand, pursuant to Section 17.505(a) of the Texas Deceptive Trade Practices--Consumer Protection Act ("DTPA"). No later than after the expiration of sixty (60) days from the date you receive this letter, Bank & Trust will file a lawsuit against 3Com Corporation ("3Com") and Main Street National Bank ("MSNB"). To avoid such a lawsuit, 3Com and MSNB may settle this claim by tendering a written offer of settlement as follows, compensating Bank & Trust for damages and attorneys' fees incurred to date:

Mr. Dean Whitehouse  
Mr. Jerry L. Noon  
12 February 2008  
Page 2

- Payment of \$250,000.00, as compensation for the amount that Bank & Trust has paid and will be required to pay over the term of the 3Com POZ Agreement and the 3Com POZ Rental Agreement (excess of the amounts currently alleged as remaining payable under the 3Com POZ Rental Agreement), in order to obtain the equipment and services that Bank & Trust purchased in accordance with the 3Com® Power of \$Zero™ Solution, including the 3Com POZ Agreement and the 3Com POZ Rental Agreement; and
- Payment of \$3,000.00 in attorneys' fees and related costs and expenses that Bank & Trust has incurred in retaining this firm to review pertinent documents and prepare this demand.

The offer to settle for this amount will be withdrawn upon the expiration of the sixty (60) day period.

#### **FACTUAL BACKGROUND**

In 2006, Metropark Communications, Inc. ("Metropark"), a 3Com "Voice Authorized Partner" and "Platinum Dealer", approached Bank & Trust concerning the replacement of the telephone systems at its multiple locations. Metropark provided Bank & Trust with a presentation on the 3Com Power of \$Zero™ Solution, promoted as a viable, cost-effective alternative to a traditional equipment sale (requiring that Bank & Trust continue to maintain one or more separate agreements with other vendors for the delivery of its telecom and data services). Persuaded by the promotional materials describing the program's numerous benefits, and relying upon 3Com's name and reputation, Bank & Trust purchased the 3Com Power of \$Zero™ Solution. That decision was based upon 3Com's numerous representations:

The 3Com® Power of \$Zero™ Solution can transform your company's recurring expenses into a profit center, help reduce telecom and 3Com equipment expenses to zero, and ensure your business has the advanced technology needed for success in today's marketplace.

In its literature and on its website, 3Com urged customers to "entrust your telecom services to the Power of \$Zero program." 3Com assured Bank & Trust that it would enhance its business with "innovative, secure communications solutions", and that it would "simplify administering them with single monthly invoices from one provider."



Mr. Dean Whitehouse  
Mr. Jerry L. Noon  
12 February 2008  
Page 3

Bank & Trust was advised that in order to solve the "challenge" of needing new equipment and employing new technologies, it could rely upon certain 3Com "solutions" including, the 3Com Power of \$Zero™ Solution – which was described as an "innovative, new financial program." Moreover, 3Com specifically represented that Bank & Trust would reap the benefits of 3Com's Nationwide Intelligent Private Network (IPN).

Relying upon the 3Com name, and sold on the purported benefits of the 3Com Power of \$Zero™ Solution, on 4 April 2006, Bank & Trust executed the 3Com POZ Agreement. Subsequently, and as part of this transaction, on 29 June 2006, Bank & Trust executed the 3Com POZ Rental Agreement, covering the "3Com NBX Telephone System."

Numerous failures occurred in connection with the delivery of both the telecom and data equipment and services. Most recently, Bank & Trust received notice that the telecom and data services to be delivered under the 3Com POZ Agreement and the 3Com POZ Rental Agreement would no longer be provided. In a letter dated 27 September 2007, 3Com's provisioning partner advised Bank & Trust that, "some or all of your telecom services (Local, Long Distance, Toll Free, Internet/Data & Cellular) . . . may be interrupted due to non-payment." Subsequently, and through the cooperation of Mr. Glenn Conley at Metropark, Bank & Trust has managed to replicate its telecom and data services through other vendors. Presently, the cost for obtaining those telecom and data services is approximately \$6,000.00 per month.

MSNB was well aware of 3Com's impending failure to adequately provide the telecom and data services to its customers. In correspondence sent in September and October of 2007, MSNB advised Bank & Trust that it would no longer be invoicing or collecting the "Pass Through Amounts" under the 3Com POZ Agreement, an amount which MSNB had been invoicing and collecting each month. Thus, as a consequence of 3Com's decision to cease providing telecom and data services (as required by the 3Com POZ Agreement), Bank & Trust's payment under the 3Com POZ Rental Agreement would also be reduced from \$6,736.45 to \$5,474.35 (presumably for the remaining term of the 3Com POZ Rental Agreement).

Consequently, Bank & Trust is afforded a total of \$1,262.10 per month to replicate the telecom and data services for which it previously paid (in March of 2006) \$6,398.66 per month. In rough numbers, 3Com and MSNB appear to suggest that Bank & Trust should use approximately 20% of its prior "dial tone spend" to cover its entire telecom and data services requirements. Assuming that these services can and will be provided for an estimated cost of \$6,000.00 per month, Bank & Trust has incurred and will incur damages of approximately \$4,800.00 per month from October of 2007 through the end of the 3Com POZ Rental Agreement. Multiplied by the estimated 55 remaining payments

Mr. Dean Whitehouse  
Mr. Jerry L. Noon  
12 February 2008  
Page 4

under the 3Com POZ Rental Agreement, Bank & Trust will incur damages of approximately \$264,000.00.

Attempting to shield itself from the situation, in its correspondence to Bank & Trust and other customers, MSNB claims that it "is not familiar with your precise use of the equipment we are financing," and that MSNB's "involvement in this matter is only as a provider of financing for the equipment." To the contrary, and as evidenced by the contractual and business relationships, there is ample evidence that MSNB was intimately familiar with the precise structure of the transaction, acting in concert with 3Com and its partners in marketing the 3Com Power of \$Zero™ Solution, in order to derive significant economic benefit.

#### COMPLAINTS AND CLAIMS

Bank & Trust's complaints against 3Com and MSNB include:

- 3Com represented that the 3Com® Power of \$Zero™ Solution was a 3Com program, and that 3Com would stand behind the goods and services to be provided under the program, making certain they were delivered in accordance with the express and implied representations.
- 3Com represented that Bank & Trust *could rely upon certain 3Com "solutions"* including, the 3Com Power of \$Zero™ Solution – which was described as an "innovative, new financial program."
- 3Com represented that by purchasing the 3Com® Power of \$Zero™ Solution, Bank & Trust could reap the benefits of 3Com's Nationwide Intelligent Private Network (IPN).
- 3Com represented the vendors it selected to provide equipment and services under the 3Com® Power of \$Zero™ Solution were competent and qualified to provide that equipment and services, and would provide such equipment and services in accordance with industry standards.



Mr. Dean Whitehouse  
Mr. Jerry L. Noon  
12 February 2008  
Page 5

- 3Com represented that by purchasing the 3Com® Power of \$Zero™ Solution, Bank & Trust could transform its recurring expenses into a profit center, and *help reduce its telecom and 3Com equipment expenses to zero.*
- 3Com represented that in accordance with the 3Com® Power of \$Zero™ Solution, 3Com would provide “innovative, secure communications solutions and simplify administering them with single monthly invoices from one provider.”
- 3Com represented that the 3Com® Power of \$Zero™ Solution, included a \$Zero Cost Warranty, providing for the administration and delivery of telecom and data services in the event that 3Com’s selected provisioning partner became insolvent.
- 3Com represented that by purchasing the 3Com® Power of \$Zero™ Solution, Bank & Trust’s monthly payment for telecom and data equipment and services would not change.
- 3Com represented that the 3Com® Power of \$Zero™ Solution, included a provision that if Good Cause was established, Bank & Trust could cancel the 3Com POZ Agreement, in which case any remaining obligations under the 3Com POZ Rental Agreement would be discharged, and Bank & Trust would be released from all further obligations.
- MSNB represented that the 3Com® Power of \$Zero™ Solution was a 3Com program, indicating that 3Com would stand behind the goods and services to be provided under the program, making certain they were delivered in accordance with the express and implied representations.
- MSNB represented that in accordance with the 3Com® Power of \$Zero™ Solution, 3Com would provide “innovative, secure communications solutions and simplify administering them with single monthly invoices from one provider.”

Mr. Dean Whitehouse  
Mr. Jerry L. Noon  
12 February 2008  
Page 6

- MSNB represented that the 3Com® Power of \$Zero™ Solution, included a \$Zero Cost Warranty, providing for the administration and delivery of telecom and data services in the event that 3Com's selected provisioning partner became insolvent.
- MSNB represented that by purchasing the 3Com® Power of \$Zero™ Solution, Bank & Trust's monthly payment for telecom and data equipment and services would not change.
- MSNB represented that the 3Com® Power of \$Zero™ Solution, included a provision that if Good Cause was established, Bank & Trust could cancel the 3Com POZ Agreement, in which case any remaining obligations under the 3Com POZ Rental Agreement would be discharged, and Bank & Trust would be released from all further obligations.

Bank & Trust's claims against 3Com and MSNB stem from the following statutory and common law duties.

**Texas Deceptive Trade Practices - Consumer Protection Act**

- TEX. BUS. & COM. CODE §17.50(a)(1);
- TEX. BUS. & COM. CODE §17.46(b), subparts (2), (3), (4) (5), (7), (12), (14) and (20);
- TEX. BUS. & COM. CODE §17.50(a)(2);
- TEX. BUS. & COM. CODE §17.50(a)(3);

**Violations of Common Law Duties**

- *Negligence per se* for unexcused violations of the statutes listed above; and
- Negligent Misrepresentation.

Mr. Dean Whitehouse  
Mr. Jerry L. Noon  
12 February 2008  
Page 7

#### **DAMAGES**

As a result of 3Com's and MSNBs' acts and omissions, as described above, Bank & Trust has incurred damages as follows:

- \$264,000.00 - the amount that Bank & Trust has paid and will be required to pay over the term of the 3Com POZ Agreement and the 3Com POZ Rental Agreement (excess of the amounts currently alleged as remaining payable under the 3Com POZ Rental Agreement), in order to obtain the equipment and services that Bank & Trust purchased in accordance with the 3Com® Power of \$Zero™ Solution, including the 3Com POZ Agreement and the 3Com POZ Rental Agreement; and
- \$3,000.00 in attorneys' fees and related costs and expenses that Bank & Trust has incurred in retaining this firm to review pertinent documents and prepare this demand.

#### **OFFER TO SETTLE**

Section 17.50 of the DTPA allows a consumer who prevails under the DTPA to recover up to three times the actual damages, together with court costs and attorneys' fees. Pursuant to Section 17.5052 of the DTPA, 3Com and MSNB have the opportunity to avoid the multiplying of damages if the actual damages and reasonable attorneys' fees are tendered, in a written offer of settlement within the prescribed time period. The settlement offer must be received within sixty (60) days after receipt of notice of claim and formal demand.

In order to resolve this matter, Bank & Trust is willing to forego all damages attributable to the wrongful and tortious conduct described above in consideration for:

- Payment of \$250,000.00, as compensation for the amount that Bank & Trust has paid and will be required to pay over the term of the 3Com POZ Agreement and the 3Com POZ Rental Agreement (excess of the amounts currently alleged as remaining payable under the 3Com POZ Rental Agreement), in order to obtain the equipment and services that Bank & Trust purchased in accordance with the 3Com® Power of \$Zero™ Solution, including the 3Com POZ Agreement and the 3Com POZ Rental Agreement; and
- Payment of \$3,000.00 in attorneys' fees and related costs and expenses that Bank & Trust has incurred in retaining this firm to review pertinent documents and prepare this demand.



Mr. Dean Whitehouse  
Mr. Jerry L. Noon  
12 February 2008  
Page 8

If 3Com or MSNB fail to tender a written settlement offer within sixty (60) days from the date you receive this letter, Bank & Trust intends to file a lawsuit to recover all applicable damages. In that event, the jury will be asked to award actual damages, treble damages, statutory penalties, all court costs, reasonable attorneys' fees, and interest on these amounts at the maximum lawful rate under the provisions of the DTPA, and the common or statutory laws of the State of Texas. If it is necessary to litigate this matter, the amount of attorneys' fees and related expenses for which 3Com and MSNB will be liable will increase significantly.

#### SUSPENSION OF PAYMENTS

In addition, Bank & Trust is also requesting that all amounts alleged as due and owing under the POZ Rental Agreement be suspended, and that MSNB (and its assignee, if applicable) enter an agreement that until this matter is resolved:

- MSNB shall not seek to collect the monthly payment under the POZ Rental Agreement;
- Any amounts claimed as due and owing under the POZ Rental Agreement shall not accrue any additional interest, penalty, late fees, or the like; and
- MSNB shall not report any adverse credit information to any credit reporting agency as a consequence of this suspended payment arrangement.

Should you care to discuss this matter, please do not hesitate to call.

Sincerely,



Simon H. Hughes

SHH/ap

cc: Mr. Kent Redfern